New Swiss corporate tax reform positions introduced for parliamentary discussion

Contacts

Andreas Staubli
Partner, Leader Tax & Legal Services Switzerland
+41 58 792 44 72
andreas.staubli@ch.pwc.com

Armin Marti
Partner, Leader Corporate Tax Switzerland
Schweiz
+41 58 792 43 43
armin.marti@ch.pwc.com

Benjamin Koch
Partner, Leader Transfer Pricing and Value Chain Transformation
+41 58 792 43 34
benjamin.koch@ch.pwc.com

Daniel Gremaud
Partner, Leader Tax & Legal Romandie
+41 58 792 81 23
daniel.gremaud@ch.pwc.com

Claude-Alain Barke
Partner, Tax & Legal Romandie
+41 58 792 83 17
claude-alain.barke@ch.pwc.com

Remo Küttel
Director, Tax & Legal
+41 58 792 68 69
remo.kuettel@ch.pwc.com

Laurenz Schneider
Director, Corporate Tax
+41 58 792 59 38
laurenz.schneider@ch.pwc.com

In brief

The Swiss Federal Council in June 2015 submitted the dispatch on Federal Corporate Tax Reform III (CTR III) to the Parliament for consultation. After the Council of States considered the package in December 2015, the Economic Committee of the National Council (Committee) on February 22-23, 2016, established parameters for the upcoming National Council discussion. The parameters differ from the Council of States proposal in many respects.

The Committee supports introducing an interest-adjusted corporate income tax on above-average equity, also known as a notional interest deduction (NID). The Committee also supports introducing a tonnage tax and abolishing the issuance duty on equity, with the latter being introduced in a separate bill. In the opinion of the Committee, the Cantons should determine the maximum available tax relief from patent box and input promotion (R&D super deduction system). The proposed combined tax relief provided by the patent box, input promotion, and interest-adjusted corporate income tax should not exceed 80 %.

In detail

Previous measures and changes

Patent box
The Committee agreed with introducing a Cantonal patent box, as proposed by the Federal Council, with an EU-aligned modified nexus approach. According to the Federal Council and the Council of States, the maximum relief for patent box income should be 90%. Alternatively, the Committee would refrain from such a limitation and leave the extent of the relief to the Cantons. However, an overall limitation of the relief is expected (see 'New measures and additions' below).

Input promotion
The Committee also agreed with introducing a Cantonal input promotion of research and development, as proposed by the Federal Council. Similar to the Federal Council, the Committee was not supportive of a specific limitation of this measure to a certain maximum percentage, but does allow the Cantons to set the limit. However, an overall limitation of the relief is expected (see 'New measures and additions' below). One significantly innovative proposal is expected to be mentioned: that research expenditures abroad should be entitled to a super-deduction.

Issuance duty
The Committee argued against the Council of States and supports abolishing the issuance duty on equity, thereby following the proposal of the Federal Council. The Committee also argued that abolishing the issuance duty should occur through a separate bill, which is a significant difference from the Federal Council. The separate bill would not endanger acceptance of the CTR III bill. Accordingly, the issuance duty bill can be postponed if necessary.

Partial taxation of dividends for individuals
Like the Council of States, the Committee proposed retaining current law, which is contrary to the Federal Council's proposal. The Committee argued to leave the partial taxation portion at the discretion of the Cantons.

New measures and extensions

NID
The Committee supports, in contrast to the Federal Council and the Council of States, the introduction of an interest-adjusted corporate income tax on above-average equity. This measure is expected to be implemented mandatorily at the Federal level, but optionally at the Cantonal level.

Tonnage tax
The Committee accepted, also in contrast to the Federal Council and the Council of States, the motion for introducing a tonnage tax, and proposes that it be included in the CTR III package.

Limitation of the reliefs
The Committee also proposes a limitation of 80% on the tax relief accorded by the following three items: patent box, input promotion, and interest-adjusted corporate income tax. The Cantons also should be able to decide on a different limit for the maximum relief, according to the Committee.

Voluntary surrender of the Cantonal tax status
To prevent distortive effects on the National Equalisation of Resources mechanism that result from voluntary status changes prior to CTR III becoming effective, the Committee supports a revision of the respective legal norms. Cantons thus no longer should be de-incentivised to allow companies an early transfer out of the special status with respective step-up.

Way forward

The proposal will be discussed in the National Council during the 2016 spring session. The final vote will be held in summer. Without a referendum against it, the CTR III could take effect, at the earliest, at the beginning of 2017, with Cantonal implementation effectively beginning in 2019. If additional political debate or referendum will be required, CTR III could begin taking effect at any time during 2018-2021.

Politically, with the decision of the Committee, there are significant differences from the positions reached by the Council of States and from the opinion of the Finance Ministers Conference, which represents the view of the Cantons. To this extent, a lively political discourse and numerous discussions over the next months can be expected, both in the forthcoming debate in the National Council and in the subsequent reconcilement procedure with the Council of States. These discussions could result in possible changes to the proposal.

The takeaway

The decision and proposal put forward by the Committee – supporting the introduction of a notional interest deduction, freedom of the Cantons regarding the patent box and input promotion, and the inclusion of foreign research expenditures in the input promotion – is a very important step in the right direction. If CTR III has a modular structure, it is a promising approach to provide the Cantons with fiscal tools that they need for an individually tailored implementation of CTR III.

Furthermore, the proposed revision of the legal basis in connection with the voluntary surrender of Cantonal tax status is of key importance. Companies that currently benefit from a Cantonal tax status should be allowed to change to ordinary taxation before abolishing the tax status with a corresponding step up, without penalizing the Cantons when companies do so via the National Equalisation of Resources mechanism.

Abolition of the issuance duty and the introduction of a tonnage tax are not as important. With a preference for a 'slimmer' and more cost-effective package, and to ensure a solution with majority support, consideration may be given to include those in a separate proposal.

The continued intent behind CTR III is to improve the attractiveness of Switzerland as a tax location for the longer term, especially in combination with the announced Cantonal corporate tax rate reductions.

PwC's assessment

We welcome the great majority of the proposals put forward by WAK-N. To be mentioned as a key aspect is the introduction of interest adjusted corporate income tax, which we consider to be an essential measure and in this respect strongly support the proposal of WAK-N. We also welcome the fact that in this respect and as well as for the instruments patent box and input promotion the Cantons are to be allowed more freedom of manoeuvre and only an overall relief limitation of 80% is proposed. Furthermore the inclusion of foreign research expenditures in the input promotion is also a very important step in the right direction. In general we see it as a promising approach, if CTR III has a modular structure, in order to give the Cantons the fiscal tools, which they need for an individually tailored implementation of CTR III. Furthermore, the proposed revision of the legal basis in connection with the voluntary surrender of the cantonal tax status is of key importance. Companies, which today benefit from a cantonal tax status, should be able to change to ordinary taxation before abolition of the tax status, without as a result the Cantons having to suffer disadvantages in the context of the National Equalisation of Resources.

Abolition of the issuance duty and the introduction of a tonnage tax are as outlined above not as important. With a preference for a 'slimmer' and more cost-effective package, and to ensure a solution with majority support, consideration may be given to include those in a separate proposal.

CTR III is intended to improve the attractiveness of Switzerland as a tax location for the longer term. The reform is therefore of key importance for the medium and long term future of our country. PwC will continue to actively pursue the further developments in connection with CTR III.

If you have questions, please contact your usual PwC contact person or one of PwC Switzerland's experts in CTR III named on the front.